

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOHN KOE,)	Case No. 1:22-cv-1455
)	
Plaintiff,)	
)	
v.)	JUDGE DAN AARON POLSTER
)	
UNIVERSITY HOSPITAL HEALTH)	<u>ORDER</u>
SYSTEMS, INC. <i>et al.</i> ,)	
)	
Defendants.)	

Plaintiff attempted to commence a federal employment-discrimination and retaliation lawsuit in August 2022. [ECF Doc. 1](#). He did so anonymously using the pseudonym, John Koe. Because Plaintiff had not shown that his privacy interest outweighed the presumption in favor of open judicial proceedings, the Court dismissed Koe's anonymous complaint. The Court gave Plaintiff 14 days to file a motion to reopen the case and file an amended complaint identifying himself. [ECF Doc. 7 at 6](#). Instead, Plaintiff appealed. The Sixth Circuit affirmed the Court's dismissal, noting that it was appropriate under [Fed. R. Civ. P. 10\(a\)](#). [ECF Doc. 17](#).

On September 11, 2024, Plaintiff filed a motion to amend caption ([ECF Doc. 21](#)) and motion for relief. [ECF Doc. 22](#). This is now Plaintiff's second motion for relief from judgment filed since the Court of Appeals affirmed the Court's dismissal. *See ECF Doc. 19*. In his latest motion, Plaintiff has provided his real name (Nicholas Krudy) and represents he was previously planning to do so – a fact which was not expressed in his previous motion for relief. *See e.g., Id.*

[Fed. R. Civ. P. 60\(b\)](#) permits a party to file a motion for relief from a judgment on certain grounds. Plaintiff has not cited any of the appropriate grounds for relief. Nor can he. His original complaint was dismissed appropriately under [Fed. R. Civ. P. 10\(a\)](#), and Plaintiff was instructed to reopen his case with his real name. He chose not to do so and appealed the Court's ruling. His failure to follow the Court's instructions is not an appropriate basis for vacating the Court's prior order. Plaintiff's motion for relief is also untimely as it was required to be made within a year after the order. *See Fed. R. Civ. P. 60(c).*

As has been previously stated, Plaintiff's claims were dismissed *without prejudice*. He is not barred (by the Court's October 2022 order) from filing his claims using his real name. Thus, it is not necessary for this Court to "relieve" Plaintiff from its prior order (which was affirmed on appeal). The Court acknowledges that Plaintiff has a concern that his new case will not "relate back" to his original filing of August 15, 2022. *See ECF Doc. 19.* However, that question — whether Plaintiff properly commenced a lawsuit in August 2022 to which a new filing might relate — is an issue to be addressed in Plaintiff's newly filed lawsuit, not by granting relief to this Court's October 2022 order.

For the reasons stated herein, Plaintiff's motion to amend caption ([ECF Doc. 21](#)) and motion for relief ([ECF Doc. 22](#)) are *sua sponte* DENIED. Plaintiff should file his claims in a new lawsuit using his real name.

Dated: September 12, 2024

s/Dan Aaron Polster
United States District Judge